

MINUTES  
BOARD OF SUPERVISORS  
COUNTY OF YORK

Regular Meeting  
August 17, 2004

7:00 p.m.

Meeting Convened. A Regular Meeting of the York County Board of Supervisors was called to order at 7:00 p.m., Tuesday, August 17, 2004, in the Board Room, York Hall, by Chairman Thomas G. Shepperd, Jr.

Attendance. The following members of the Board of Supervisors were present: Walter C. Zarembo, Sheila S. Noll, Kenneth L. Bowman, James S. Burgett, and Thomas G. Shepperd.

Also in attendance were James O. McReynolds, County Administrator; J. Mark Carter, Assistant County Administrator; and James E. Barnett, County Attorney.

Invocation. Father James Barlow from Langley Air Force Base gave the invocation.

Pledge of Allegiance to the Flag of the United States of America. Chairman Shepperd lead the Pledge of Allegiance.

**HIGHWAY MATTERS**

Mr. Steven Hicks, Resident Engineer, Virginia Department of Transportation (VDOT), told the Board that he had accepted a position elsewhere and that this meeting was his last. He acknowledged that there are outstanding drainage issues in the County, and VDOT had hired eight new employees to address the drainage problems.

Mrs. Noll stated she was sorry Mr. Hicks was leaving and acknowledged the many tasks he had accomplished during his short tenure. She thanked him for the sidewalk in the Kiln Creek area and reminded him that the reflectors to be installed on Route 17 were still not in place.

Mr. Zarembo explained that Royal Grant Drive was in bad shape with sections of the road falling apart. He stated it was scheduled to be paved next year, but asked if it could be repaired before that time. He then stated Mr. Hicks will be missed very much and commended his work in the County.

Mr. Bowman stated that Mr. Hicks had done a super job and thanked him for his efforts in the County. He questioned the delay in the paving of Seaford Road, from Sommerville to Bay Tree Beach Road, and stated he was interested in speaking to the new resident engineer about flooding from rainfall and water backing up in yards.

Mr. Hicks stated the paving had been pushed back because of the rain.

Mr. Burgett thanked Mr. Hicks for the wonderful job he had done for the County.

Mr. Shepperd praised Mr. Hicks' accomplishments and reiterated what the other members had said about him. He stated Mr. Hicks' presence had changed his view of VDOT.

Mr. Hicks complimented the County staff and introduced his successor, David Steele. He stated Mr. Steele had the same drive and dedication as he in continuing to serve the County's transportation needs.

**PRESENTATIONS**

**COMMENDATION OF YORK COUNTY EMPLOYEE**

Mr. Stan Clark, Chairman, Isle of Wight Board of Supervisors, appeared before the Board to

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commend the County on its establishment of the Route 17 Revitalization Committee. He explained that the Isle of Wight Board of Supervisors was very interested in establishing a committee to help its portion of Route 17. He stated the Isle of Wight staff met with York County staff and committee members, studied the specifics, and formed their own committee to oversee the revitalization of Route 17 in Isle of Wight County. He thanked the York County Board of Supervisors for initiating such a committee and sharing the information gained with them.

#### **ROUTE 17 REVITALIZATION**

Mr. James Noel, Jr., Director of the Office of Economic Development, provided the Board with an updated report on the revitalization of Route 17. The report contained updates on the architectural design assistance program, tax exemption programs, commercial revitalization overlay district, the automobile graveyard ordinance, and proposed zoning ordinance amendments.

#### **NEIGHBORHOODS OF THE YEAR**

Chairman Shepperd and Mr. Zaremba congratulated representatives from the following communities on achieving the 2004 Neighborhood of the Year award:

Glen Laurel  
Marlbank Cove

Neighborhood Beautification  
Neighborhood Cooperation and Spirit

#### **CITIZENS COMMENT PERIOD**

No one appeared to speak this evening.

#### **COUNTY ATTORNEY REPORTS AND REQUESTS**

Mr. Barnett indicated he had no report to make at this time.

#### **COUNTY ADMINISTRATOR REPORTS AND REQUESTS**

Mr. McReynolds spoke on the Federal Emergency Management Agency (FEMA) meeting held in Gloucester County concerning Hurricane Isabel recovery and grants. In order to eliminate confusion with the availability of grant funds, he explained the requirement which must be met and further indicated that County properties did not meet these requirements. He encouraged citizens to contact the administration office if they have questions. He reminded the Board of its upcoming regular meetings and work sessions, including its legislative meeting scheduled for August 26.

Chairman Shepperd requested that the Board receive regular updates on the Moore's Creek project.

#### **MATTERS PRESENTED BY THE BOARD**

Mr. Burgett complimented the Department of Fire and Life Safety after receiving a telephone call from a tourist who had trouble and was helped by the fire department. Concerning the Route 17 revitalization, he stated the pictures of the Exxon station had been forwarded to Exxon. He thanked the Board for its support in the letter to Admiral Turcott of the Navy. He announced that the Youth Commission orientation would begin next week.

Mrs. Noll stated the work session last week regarding the Board's meetings elicited a good exchange of ideas, including the topic of should the Board of Supervisors have one or two meetings with public hearings. She stated she was thrilled that the Virginia Marine Resources Commission decided to permit the proposed reservoir. She noted she had attended a meeting on the Virginia Multimodal Transportation System, and mentioned the hearings to be held

throughout the area. She also noted she attended the Williamsburg Area Convention and Visitors Bureau meeting to review the initial findings of the travel industry's strategic plan.

Mr. Zaremba reported that his appointment to the Senior Center Board would begin Monday. He indicated he had met with the Williamsburg Area Destination Marketing Committee to discuss the extra \$2.00 room tax and the decline in the historic triangle tourism. He expressed his concern over the number of timeshares that were not required to pay the \$2.00 fee. Discussions took place at the meeting to determine what is necessary to increase the tourism figures. He mentioned salary comparisons and the possibility of initiating merit raises for County personnel. Mr. Zaremba pointed out that the Board had just finished a budget cycle, and the new budget cycle would begin in the fall.

Mrs. Noll pointed out that timeshares spend a great deal of money on advertising to bring tourists to the area, including Yorktown.

Meeting Recessed. At 7:54 p.m. Chairman Shepperd declared a short recess.

Meeting Reconvened. At 8:02 p.m. the meeting was reconvened in open session by order of the Chair.

### **PUBLIC HEARINGS**

#### **YORK COUNTY CODE AMENDMENT: INOPERATIVE MOTOR VEHICLES**

Mr. Barnett gave a presentation on proposed Ordinance No. 04-16 to amend the York County Code with respect to the keeping of inoperative motor vehicles, trailers, or semi-trailers on property zoned residential or commercial.

Mrs. Noll asked if the amendment to the ordinance could include a more defined screening, and she cited an example of neighbors being able to see the vehicles from a second story window.

Mr. Barnett stated he felt the County could be more restrictive than the state, and he will research the matter.

Mr. Zaremba shared his concerns with the policing of the neighborhoods for inoperative vehicles.

The Board discussed the definition and the enforcement of inoperative vehicles.

Mr. Barnett explained that zoning is usually policed by neighbors followed by a series of notifications given by the County.

Chairman Shepperd called to order a public hearing on Ordinance No. 04-16 which was duly advertised as required by law and is entitled:

AN ORDINANCE TO AMEND YORK COUNTY CODE SECTION 15-49 WITH RESPECT TO THE KEEPING OF INOPERATIVE MOTOR VEHICLES, TRAILERS, OR SEMITRAILERS ON PROPERTY ZONED RESIDENTIAL OR COMMERCIAL, TO DEFINE THE TERM "SHIELDED OR SCREENED FROM VIEW," AND TO ALLOW THE KEEPING OF ONE ADDITIONAL INOPERATIVE MOTOR VEHICLE SHIELDED OR SCREENED FROM VIEW, BUT NOT WITHIN A FULLY ENCLOSED BUILDING OR STRUCTURE, IF USED IN THE ACTIVE RESTORATION OR REPAIRING OF A VEHICLE

Ms. Christine Novotney, 316 Old Wormley Creek Road, stated the violations that occur within this ordinance are not enforced. She cited a newspaper article featured in the Daily Press concerning the County's inability to clean up junk vehicles, and she provided the Board with pictures depicting her property looking toward the adjacent property in question.

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Ms. Letty Best, 403 Meadowfield Road, also provided the Board with pictures of property adjacent to Ms. Novotney's home littered with debris. She called the area a vehicular graveyard and noted she was concerned for the safety of her children.

Ms. Betty Scates, 600 Main Street, also mentioned concerns surrounding Ms. Novotney's property and provided the Board with pictures. She stated if the ordinance could not be enforced now, she could not see how adding one more inoperable vehicle could help.

There being no one else present who wished to speak concerning the subject ordinance, Chairman Shepperd closed the public hearing.

Mr. Bowman stated Ms. Novotney lived in his district and that the conditions did, in fact, exist. He stated he was in a quandary as to why someone from the County has not looked at into it. He recommended that they follow up on the problem.

Chairman Shepperd directed Mr. McReynolds to have the Division of Code Compliance follow up on the matter.

Mr. Zaremba stated he was appalled that the County has homeowners who would let their property degrade in the manner the pictures depicted. He suggested that the Board table the ordinance until answers are received from Mr. Barnett on how the ordinance might be strengthened.

Chairman Shepperd acknowledged he had some of the same problems in his district, but stated he wanted to be careful not to supercede the covenants of homeowner's associations. He stated he wanted this ordinance adopted now so that the County will have the enforcement it needs, and the Board can amend the ordinance again at a later date.

Mr. Burgett agreed that the proposed ordinance should be passed at this time and amended again at a later time.

Mr. Zaremba stated he did not have a problem with that plan.

Discussion ensued.

Mrs. Noll then moved the adoption of proposed Ordinance No. 04-16 that reads:

AN ORDINANCE TO AMEND YORK COUNTY CODE SECTION 15-49 WITH RESPECT TO THE KEEPING OF INOPERATIVE MOTOR VEHICLES, TRAILERS, OR SEMITRAILERS ON PROPERTY ZONED RESIDENTIAL OR COMMERCIAL, TO DEFINE THE TERM "SHIELDED OR SCREENED FROM VIEW," AND TO ALLOW THE KEEPING OF ONE ADDITIONAL INOPERATIVE MOTOR VEHICLE SHIELDED OR SCREENED FROM VIEW, BUT NOT WITHIN A FULLY ENCLOSED BUILDING OR STRUCTURE, IF USED IN THE ACTIVE RESTORATION OR REPAIRING OF A VEHICLE

BE IT ORDAINED by the York County Board of Supervisors, this 17th day of August, 2004, that section 15-49, York County Code, be and it is hereby amended to read and provide as follows:

Sec. 15-49. Keeping of inoperative motor vehicles, trailers or semitrailers on property zoned residential or commercial.

- (a) It shall be unlawful for any person, firm or corporation to keep, except within a fully enclosed building or structure or otherwise shielded or screened from view, on any property zoned for residential or commercial purposes pursuant to chapter 24.1, Zoning, of this Code any motor vehicle, trailer or semitrailer, as such are defined in section 46.2-100, Code of Virginia, which is inoperative. As used in this section, "shielded or screened from view" means not visible by someone standing at ground level from outside the property on which the subject vehicle is located.

- (b) It shall be unlawful for any person, firm or corporation on any property zoned for residential or commercial purposes pursuant to chapter 24.1, Zoning, of this Code to keep more than one (1) inoperative motor vehicle, even if shielded or screened from view by covers, unless they are kept within a fully enclosed building or structure. Notwithstanding the foregoing, however, if the owner of such vehicle shielded or screened from view but not within a fully enclosed building or structure, can demonstrate that he is actively restoring or repairing the vehicle, and if it is shielded or screened from view, the vehicle and one additional inoperative motor vehicle being used for restoration or repair may remain on the property. Any person, firm or corporation operating in a commercial district a use permitted by category 12, Motor Vehicle/Transportation, of section 24.1-306 of this Code may keep more than one (1) inoperative motor vehicle outside a fully enclosed building or structure provided it is shielded or screened from view and otherwise conforms with the requirements of this Code
- (c) As used in this section, an "inoperative motor vehicle" shall mean any motor vehicle which is not in operating condition, or which for a period of sixty (60) days or longer has been partially or totally disassembled by the removal of tires and wheels, the engine or other essential parts required for operation of the vehicle, or on which there are displayed neither valid license plates nor a valid inspection decal.
- (d) The provisions of this section shall not apply to a licensed business which on June 26, 1970, was regularly engaged in business as an automobile dealer, salvage dealer or scrap processor, nor shall it apply to any motor vehicle for which the annual license tax required by section 15-31 has been paid or to any motor vehicle exempt from such license tax by virtue of subsections 15-35(a) through and including 15-35(o).
- (e) The owners of property zoned for residential or commercial purposes shall, by the effective date of the ordinance from which this section was derived, comply with the provisions of this section.
- (f) The county administrator may remove or cause to be removed any such inoperative motor vehicles, trailers or semitrailers whenever the owner of the premises, after reasonable notice, has failed to do so.
- (g) In the event the county administrator removes or causes to be removed any such inoperative motor vehicles, trailers or semitrailers, after having given such reasonable notice, the county may dispose of such motor vehicles, trailers or semitrailers after giving additional notice to the owner of the vehicle.
- (h) The cost of any such removal and disposal shall be chargeable to the owner of the vehicle or premises and may be collected by the treasurer as taxes and levies are collected.
- (i) Every cost authorized by this section with which the owner of the premises has been assessed shall constitute a lien against the property from which the vehicle was removed, the lien to continue until actual payment of such costs has been made to the county.
- (j) A violation of this section shall constitute a Class 3 misdemeanor, punishable by a fine of not more than five hundred dollars (\$500.00).

On roll call the vote was:

Yea: (5) Zaremba, Noll, Bowman, Burgett, Shepperd  
Nay: (0)

#### SANDBOX LANE SANITARY SEWER IMPROVEMENTS PROJECT

Mr. Barnett gave a presentation on proposed Resolution R04-124 to declare the necessity to enter upon and take certain easements in connection with the Sandbox Lane sanitary sewer improvements project.

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Mr. Burgett questioned the County's method of contacting property owners who do not respond to the County regarding the need for easements. He suggested that the Board consider adding language that would charge the owner a fee if costs are incurred due to a delay on the property owner's part.

Chairman Shepperd called to order a public hearing on Resolution R04-124 which was duly advertised as required by law and is entitled:

A RESOLUTION DECLARING THE NECESSITY TO ENTER UPON  
AND TAKE CERTAIN EASEMENTS IN CONNECTION WITH THE  
SANDBOX LANE SANITARY SEWER IMPROVEMENTS PROJECT

There being no one present who wished to speak concerning the subject resolution, Chairman Shepperd closed the public hearing.

Mr. Bowman then moved the adoption of proposed Resolution R04-124 that reads:

A RESOLUTION DECLARING THE NECESSITY TO ENTER UPON  
AND TAKE CERTAIN EASEMENTS IN CONNECTION WITH THE  
SANDBOX LANE SANITARY SEWER IMPROVEMENTS PROJECT

WHEREAS, it is necessary to obtain certain easements in connection with the Sandbox Lane sewer improvements project; and

WHEREAS, for various reasons, the County has not been able to obtain from the owners of such property clear title to the interests in real estate necessary, or no agreement has been reached as to the consideration to be paid for the said interests; and

WHEREAS, plats of the interests in real property to be acquired have been prepared by Precision Measurements, Inc. and appraisals of such interests have been prepared; and

WHEREAS, § 15.2-1905 (C), Code of Virginia, authorizes the Board to adopt a resolution following a public hearing on the matter declaring its intent to enter and take specified properties, rights-of-way or easements for such purposes as constructing, installing, expanding, maintaining, or repairing pipelines, meter boxes, pumps, or any other appurtenances to a sewerage disposal and water system.

NOW, THEREFORE, BE IT RESOLVED by the York County Board of Supervisors this 17th day of August, 2004, that the Board finds that it is necessary for the protection and preservation of the public health, safety and welfare, and for the performance of routine maintenance and repairs of the Sandbox Lane sewer improvements project, for the County, its officers, employees and agents to enter upon and take the interests in real property described below prior to the initiation of condemnation proceedings.

BE IT FURTHER RESOLVED that the interests to be taken, and the compensation and damages, if any, offered by the County for each are the following, which interests are more particularly described on the plats attached to the Report of the County Attorney dated July 22, 2004, and incorporated herein by this reference:

Tax Map No. 20-1-1

A permanent utility easement as shown on a plat entitled "Plat of Easement Acquisition From: Timothy D. McCulloch, et ux, To: County of York, Virginia, Project: Sandbox Lane Sanitary Sewer Improvements," dated February 11, 2004, prepared by Precision Measurements, Inc. and designated as a "Permanent Utility Easement Hereby Conveyed to York County, 3,975 sq. ft." Value offered to owner: \$5,247.00.

Tax Map No. 20-75

A permanent utility easement as shown on a plat entitled "Plat of Easement Acquisition From: Carroll T. Tiller, To: County of York, Virginia, Project: Sandbox Lane Sanitary

Sewer Improvements," dated February 11, 2004, prepared by Precision Measurements, Inc., and designated as a "Permanent Utility Easement Hereby Conveyed to York County, 213 sq. ft." Valued offered to owner: \$1,044.00.

NOW, THEREFORE, BE IT RESOLVED by the York County Board of Supervisors this 17th day of August, 2004, that the Chairman of the Board of Supervisors, the County Treasurer and the County Attorney are hereby authorized and directed, for and on behalf of the County, to execute certificates to be recorded in the Office of the Clerk of the Circuit Court for York County, certifying the amounts set forth above as the fair value, and damages if any, of the interests to be taken, will be paid the owners in accordance with the provisions of State law and upon order of the Court.

BE IT STILL FURTHER RESOLVED that the County Attorney be, and he is hereby, authorized, if necessary and appropriate, at any time following the date of this Resolution, to institute condemnation proceedings in the name of the Board of Supervisors to acquire title to the interests in the property described above, including, if necessary, any other easements or restrictions that may affect the easements sought to be acquired, and to do all things necessary as a prerequisite thereto.

On roll call the vote was:

Yea: (5) Noll, Bowman, Burgett, Zaremba, Shepperd  
Nay: (0)

APPLICATION NO. UP-639-04, CONNIE BATEMAN.

Mr. Carter gave a presentation on Application No. UP-639-04 to approve a use permit authorizing an accessory apartment on the second floor of a proposed detached 2-car garage in a Rural Residential district located at 109 Paradise Point Road. The Planning Commission considered the application and forwarded it to the Board of Supervisors with a recommendation of approval, and staff recommended approval of the application through the adoption of proposed Resolution R04-122.

Chairman Shepperd called to order a public hearing on Application UP-639-04 which was duly advertised as required by law. Proposed Resolution R04-122- is entitled:

A RESOLUTION TO APPROVE A SPECIAL USE PERMIT TO AUTHORIZE A DETACHED ACCESSORY APARTMENT AT 107 AND 109 PARADISE POINT ROAD

Mr. Robert Green, 111 Paradise Point Road, told the Board that the proposed accessory apartment was on Railway Road instead of Dare Road.

There being no one else present who wished to speak concerning the subject application, Chairman Shepperd closed the public hearing.

Mr. Burgett expressed his elation at the special use permit application coming before the Board before construction.

Mrs. Noll then moved the adoption of proposed Resolution R04-122 that reads:

A RESOLUTION TO APPROVE A SPECIAL USE PERMIT TO AUTHORIZE A DETACHED ACCESSORY APARTMENT AT 107 AND 109 PARADISE POINT ROAD

WHEREAS, Connie Bateman has submitted Application No. UP-639-04 to request a Special Use Permit, pursuant to Section 24.1-407(b) of the York County Zoning Ordinance, to authorize a detached accessory apartment in conjunction with a single-family detached dwelling on property located at 107 and 109 Paradise Point Road and further identified as Assessor's Parcel No. 25K-(2)-5 and 25K-(2)-4; and

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WHEREAS, said application has been forwarded to the York County Planning Commission in accordance with applicable procedure; and

WHEREAS, the Planning Commission recommends approval of this application; and

WHEREAS, the York County Board of Supervisors has conducted a duly advertised public hearing on this application; and

WHEREAS, the Board has carefully considered the public comments and Planning Commission recommendation with respect to this application;

NOW, THEREFORE, BE IT RESOLVED by the York County Board of Supervisors this the 17th day of August, 2004, that Application No. UP-639-04 be, and it is hereby, approved to authorize a Special Use Permit, pursuant to Section 24.1-407(b) of the York County Zoning Ordinance, to allow a detached accessory apartment in conjunction with a single-family detached dwelling to be contained within a proposed two-story garage on property located at 107 and 109 Paradise Point Road and identified as Assessor's Parcel No. 25K-(2)-5 and 25K-(2)-4, subject to the following conditions:

1. This use permit shall authorize the construction of a detached accessory apartment in conjunction with a single-family detached dwelling to be contained on the second floor of a proposed two-story detached garage on property located at 107 and 109 Paradise Point Road and further identified as Assessor's Parcel No. 25K-(2)-5 and 25K-(2)-4.
2. The apartment shall be contained within the proposed structure as indicated on the plat titled "Plat of the Property of Connie S. Bateman, Lot 4, Village Green, Section A," dated 3/2/04, prepared by Becouvarakis Associates, PC Land Surveying and received by the Planning Division on May 17, 2004. Building plans in substantial conformance with the floor plans submitted by the applicant and received by the Planning Division on May 17, 2004 shall be submitted to and approved by the York County Department of Environmental and Development Services, Division of Building Regulation, prior to the issuance of a building permit for the accessory apartment.
3. Not more than one (1) accessory apartment shall be permitted in conjunction with the principal dwelling unit.
4. Habitable floor area of the accessory apartment unit shall not contain in excess of 484 square feet.
5. The accessory apartment unit shall contain no more than one (1) bedroom.
6. Adequate provisions shall be made for off-street parking of motor vehicles in such a fashion as to be compatible with the character of the single-family residence and adjacent properties.
7. The accessory apartment shall not be rented separate from the principal dwelling and shall be occupied only by family members or guests of the occupant of the single-family dwelling.
8. Construction of the detached 2-car garage structure for the purpose of establishing an accessory apartment shall be in compliance with Sections 24.1-372 and 24.1-373 of the County Zoning Ordinance and all applicable State and Federal regulations relevant to development in the FEMA-designated 100-year floodplain.
9. No building permit for the proposed structure shall be issued until such time as a subdivision has been recorded consolidating the lot at 107 Paradise Point Road with a 0.22-acre portion of lot identified as 109 Paradise Point Road. In addition, the remaining portion of 109 Paradise Point Road must be consolidated in a recorded subdivision with the adjoining lot at 111 Paradise Point Road. Approval of the special use permit does not in any way imply or bind the County to approving the subdivision as conceptualized.
10. In accordance with Section 24.1-407(k) of the County Zoning Ordinance, prior to issu-



ance of a building permit for the accessory apartment, the applicant shall be responsible for recording a deed restriction document with the Clerk of the Circuit Court stipulating that the subject accessory apartment will be used, occupied and maintained in accordance with standards and restrictions set forth in Section 24.1-407 of said Ordinance. A Court-certified copy of the document shall be submitted to the County at the time of building permit application.

11. Issuance of this Special Use Permit does not supersede any legally recorded restrictive covenants that may apply to the subject property, nor does it relieve the applicant and/or property owner of any obligation to secure approvals that may be required by a homeowners' association in accordance with said covenants.
12. In accordance with Section 24.1-115(b)(7) of the York County Zoning Ordinance, a certified copy of the resolution authorizing this Special Use Permit shall be recorded at the expense of the applicant in the name of the property owner as grantor in the office of the Clerk of the Circuit Court.

On roll call the vote was:

Yea: (5) Bowman, Burgett, Zaremba, Noll, Shepperd  
Nay: (0)

APPLICATION NO. ZM-85-04, 64 ENTERPRISES, LLP.

Mr. Carter gave a presentation on Application No. ZM-85-04 to reclassify two parcels of land encompassing approximately 15 acres located on the north side of Newman Road at its intersection with Fenton Mill Road to conditional General Business subject to voluntarily proffered conditions. He stated the Planning Commission considered the application and forwarded it to the Board of Supervisors with a recommendation of approval, and staff recommended approval of the application through the adoption of proposed Ordinance No. 04-19.

Mr. Burgett expressed his concern about the number of homes that would be able to see this development, and he spoke of the commercial node and how the Comprehensive Plan would affect it in the subject area.

Mr. Carter stated the language for the commercial node became more specific with the 1999 version of the Comprehensive Plan and what should be in place before the commercial area developed. He stated staff suggests that this proposal is in line with the Comprehensive Plan.

Mr. Bowman pointed out that anyone who had the property could, by right, develop it commercially.

Mr. Carter confirmed that anything that was allowed in the General Business district could be put on the 5-acre parcel as it is currently zoned.

Mr. Zaremba spoke on the types of developments in the surrounding areas, both existing and potential developments. He referred to the Comprehensive Plan and its mission, and explained how the plan was put into place. He expressed concerns over the exteriors of the proposed buildings, and he questioned the non-binding conceptual plan and asked why have a such a plan.

Mr. Carter explained the applicant proffered the basic infrastructure because he does not know who the occupants will be.

Discussion ensued regarding the proffers included, and the suggestion that a right-turn lane be included in those proffers.

Chairman Shepperd called to order a public hearing on Application ZM-85-04 which was duly advertised as required by law. Proposed Ordinance No. 04-19 is entitled:

AN ORDINANCE TO APPROVE AN APPLICATION TO REZONE AP-

PROXIMATELY 15.0 ACRES ON NEWMAN ROAD AT ITS INTER-SECTION WITH FENTON MILL ROAD FROM GENERAL BUSINESS (GB) AND RURAL RESIDENTIAL (RR) TO CONDITIONAL GENERAL BUSINESS SUBJECT TO VOLUNTARILY PROFFERED CONDITIONS

Mr. Tom Tingle, architect, explained the project to the Board and offered to answer any of the Board's questions. He stated the development team hosted two neighborhood meetings to ask residents for their input to design a project acceptable to the neighborhood.

Mr. Jack Hamilton, president of Banbury Cross Homeowner's Association, gave the Board a petition signed in opposition to the proposal by 401 citizens from the nearby area. He expressed concerns surrounding the quality of life once the development is completed, and he asked the Board to protect them by voting no on the application.

Mr. Andy Petkofsky, 238 King's Gate Road, cited his opposition to the zoning application and stated it was a violation of the County's Comprehensive Plan. He also voiced concerns over the potential traffic problems in the area. He stated there was no need to rezone more residential land to create a commercial node in the area.

Mr. Peter Mellette, 125 Cherwell Court, asked the Board to reject the proposal. He stated he believed it was premature to rezone, and he has concerns with what would be built on the property.

Mr. Dick Bain, 188 Penn Drive, stated the traffic analysis does not address pedestrian and bicycle traffic, and he emphasized the need for a full traffic analysis. He stated there was no provision in the proffers to ensure the safety of pedestrians and bicyclists.

Mr. William Pepper, 130 Londonderry Lane, stated his opposition to the project. He described how the neighboring homes would be overshadowed by large buildings. He stated he felt that York County was pushing extreme interpretations of the Comprehensive Plan, and he requested that the Board deny the application.

Mr. Gus Dovi, 149 Quaker Meeting House Road, voiced his opposition to the application and told the Board that there was no real need or gain for the County to proceed with this proposal. He mentioned the abuse to their wells, stress to the wetlands, and the increased need for patrolling the area by the Sheriff's department.

Mr. Fred Richmond, 215 Cherwell Court, spoke in opposition to the proposed project and stated the citizens want a commercial node that was as small as possible.

Mr. John Mandaro, 395 Fenton Mill Road, asked the Board to send the message to the Planning Commission that it represents the interest of the people. He explained that 80 people appeared in opposition at the Planning Commission's meeting, but they were ignored.

Mr. Ed Schuler, 135 Quaker Meeting House Road, suggested that the other five acres be zoned Rural Residential as the community does not want the commercial aspect. He discussed the entrances to the project and stated there was no guarantee of the proffers.

Mr. A. Lyle Hughes, explained that he was against the first two proposals, but feels this is a known commodity now and they know what it is. He stated he supports the proposal and pointed out if it was not approved, it could come before the Board year after year with other proposals that were not as good.

There being no one else present who wished to speak concerning the subject application, Chairman Shepperd closed the public hearing.

Mr. Zaremba stated what Mr. Hughes said was true that the developer had given the citizens a chance for input and they would know what they were getting if the proposal was passed. He reminded the Board of the Planning Commission's decision to approve the application, and of the Planning Commission's responsibility. He discussed what the potential developments were, and stated it was a well thought-out, well-planned development with the potential to be first

class. He stated the development is not needed nor wanted by the citizens, and he will vote no on the application.

Mr. Burgett stated that the responsibility of the Board is to plan for the future and that the Comp Plan is a living document that has moved and adjusted as the citizens have pushed it along. He pointed out that this commercial node has always been a commercial node. He cited the importance for the County to continue to grow to pay for the wonderful quality of life the citizens enjoy. He noted the County had reached the point where the demographics are right for commercial growth. He mentioned that it was unusual for a developer to give the County so much control, and he stated he would support the application.

Mrs. Noll agreed with Mr. Burgett on the Comprehensive Plan issue, but expressed sympathy over how the citizens felt. She indicated she worked on the Comprehensive Plan and stated the Board members try to adhere to it as closely as they can. She explained the Plan is something that helps guide the Board toward seeing greater benefits to the County. She explained this application was an opportunity for the community, the developer, and the County to get together and look at the ramifications and to have the citizens' voices heard. She suggested the County add the sidewalks to the plan if the application passed, and she shared concerns over the number of entrances on the main road. Mrs. Noll commented that the citizens had worked with the staff, their voices had been heard, and that this was a community project. She stated her support of the application.

Mr. Bowman commended the developers, staff, and the community for holding a public forum to air their differences. He stated he thinks the developer did a good job in coming forward and addressing the citizens' objections, and he recognized the developer's generous proffers. Mr. Bowman stated he also served on the Comprehensive Plan Committee, and he encouraged citizens to attend meetings to help design the new Comprehensive Plan. Although he commended the developer's plans, he expressed concern that the design of the buildings may be left to someone else and that the development would put a lot of stress and strain on the current infrastructure. He also explained his concern over a profitable, viable, long lasting business and not one that would close due to loss of profit. He talked about the many citizens who have contacted him to voice their concerns, and he stated he will vote no to this application.

Chairman Shepperd pointed out that the developer was willing to go to great lengths to offer proffers which could eliminate much of the profit. He thought it interesting that the developer would give up such control over a piece of property. He stated the Comprehensive Plan is just a guideline and sets the tone for what the Board wants to do. He indicated he did not have objections to a new business that operates in a manner that supports the community and provides opportunity. He stated this project has the strong potential to add to the quality of life of the County. He shared his concern regarding the unknown acreage nearby that is wide open for development, and noted he was not sure if the revenue generated from this project would be significant enough or if the project was right for the area. Mr. Shepperd stated he does not see the driving need for this rezoning and will not support the application.

Mrs. Zaremba then moved the adoption of proposed Ordinance 04-19 which reads:

AN ORDINANCE TO APPROVE AN APPLICATION TO REZONE APPROXIMATELY 15.0 ACRES ON NEWMAN ROAD AT ITS INTERSECTION WITH FENTON MILL ROAD FROM GENERAL BUSINESS (GB) AND RURAL RESIDENTIAL (RR) TO CONDITIONAL GENERAL BUSINESS SUBJECT TO VOLUNTARILY PROFFERED CONDITIONS

WHEREAS, 64 Enterprises, LLP has submitted Application No. ZM-85-04, which requests to amend the York County Zoning Map by reclassifying approximately 15.0 acres of land located on the north side of Newman Road (Route 646) at its intersection with Fenton Mill Road (Route 602), further identified as Assessor's Parcel Nos. 2-9A and 2-9B, from GB (General Business) and RR (Rural Residential) to conditional GB subject to voluntarily proffered conditions; and

WHEREAS, said application has been forwarded to the York County Planning Commission in accordance with applicable procedure; and

August 17, 2004

WHEREAS, the Planning Commission recommends approval of this application; and

WHEREAS, the York County Board of Supervisors has conducted a duly advertised public hearing on this application; and

WHEREAS, the Board has carefully considered the public comments and Planning Commission recommendation with respect to this application;

NOW, THEREFORE, BE IT ORDAINED by the York County Board of Supervisors this the 17th day of August, 2004, that Application No. ZM-85-04 be, and it is hereby, approved to reclassify approximately 15.0 acres of land located on the north side of Newman Road (Route 646) at its intersection with Fenton Mill Road (Route 602), further identified as Assessor's Parcel Nos. 2-9A and 2-9B, from GB (General Business) and RR (Rural Residential) to conditional GB subject to voluntarily proffered conditions contained in the proffer statement titled "Conditions Voluntarily Proffered For the Reclassification of Property Identified as Tax Parcel 002 9A, GPIN C20B-3184-2547 and Tax Parcel 002 9B, GPIN C20B-3696-2909," dated July 30, 2004, and signed by Jeff Williams, III, Managing Partner, 64 Enterprises LLP and Stephen P. Dreybus, Secretary/Treasurer, Ford's Colony First Choice Realty, Inc.

On roll call the vote was:

Yea:	(2)	Burgett, Noll
Nay:	(3)	Zaremba, Bowman, Shepperd

#### **MATTERS PRESENTED BY THE BOARD (continued)**

Mr. Bowman reported that the Comprehensive Plan is under review, and the Steering Committee will meet the fourth Thursday of each month. He noted he attended the Red Cross Annual Membership meeting and volunteer recognition reception. He thanked Mary Hughes, owner of Hampton Roads Harley Davidson, for donating the use of a new Harley Davidson to the Sheriff's Department for one year. He then thanked the Board for all the flowers and cards sent to him in the recent passing of his stepfather. He mentioned the problems with drainage in his district and asked the Board for its support to help get the drainage problems corrected. He felt that the seven corrected drainage problems mentioned by Mr. Hicks this evening was unacceptable.

Chairman Shepperd reported that the houses flooded in his district stemmed from Moore's Creek, and there were 700-800 homes in the area that are potentially affected by these drainage problems. He mentioned the Sunset Parade held at Kiln Creek sponsored by the Marine Corps. He stated he will be at the James Weldon Johnson School, now known as Yorktown Middle School, for its 50<sup>th</sup> anniversary celebration to speak on behalf of the Board of Supervisors. He stated he also will be sending out a traffic study concerning Yorktown Road that includes a proposal to reduce the speed limit for children walking to Tabb High School.

#### **CONSENT CALENDAR**

Mrs. Noll moved that the Consent Calendar be approved as submitted.

On roll call the vote was:

Yea:	(5)	Zaremba, Noll, Bowman, Burgett, Shepperd
Nay:	(0)	

Thereupon, the following minutes were approved and resolutions were adopted:

#### **Item No. 5. APPROVAL OF MINUTES**

The following minutes of the York County Board of Supervisors were approved:

July 13, 2004, Adjourned Meeting  
July 13, 2004, Regular Meeting

Item No. 6. COLONIAL SERVICES BOARD PERFORMANCE CONTRACT: Resolution R04-123.

A RESOLUTION TO AUTHORIZE EXECUTION OF A CONTRACT  
BETWEEN THE COUNTY OF YORK AND THE COLONIAL SER-  
VICES BOARD FOR THE DELIVERY OF SERVICES

WHEREAS, Section 37.1-195 of the Code of Virginia, 1950 as amended, requires each locality to establish, singly or in combination, a community services board for the provision of mental health, mental retardation, and substance abuse services to its residents; and

WHEREAS, pursuant to this statutory provision, the County of York has established the regional Colonial Community Services Board in conjunction with James City County and the Cities of Williamsburg and Poquoson; and

WHEREAS, Section 37.1-197(A)(2) requires local governments to review and act on the Annual Performance Contract with the Community Services Board and to make appropriate appointments to that Board; and

WHEREAS, the Board of Supervisors has reviewed the proposed Performance Contract between the County of York and the Colonial Community Services Board and found it to be acceptable;

NOW, THEREFORE, BE IT RESOLVED by the York County Board of Supervisors this 17th day of August, that the proposed FY2005 Annual Performance Contract between the County of York and the Colonial Community Services Board is approved and that the County Administrator be, and he hereby is, authorized to execute the agreement and to take all actions necessary to assure that services are delivered to the citizens of York County.

Item No. 7. AMENDMENT TO MEMBERSHIP OF THE COLONIAL SERVICES BOARD: Resolu-  
tion R04-127.

A RESOLUTION TO AMEND THE MEMBERSHIP OF THE COLO-  
NIAL SERVICES BOARD

WHEREAS, Chapter 10 of Title 37.1 of the Code of Virginia (1950), as amended, provides for the establishment of a community services board to deliver mental health, mental retardation and substance abuse services; and

WHEREAS, the County of York, with the intent of implementing provisions of Chapter 10 of Title 37.1 of the Code of Virginia, established the Colonial Services Board, hereinafter referred to as "the Board", by resolution, duly enacted on January 7, 1971;

WHEREAS, the original resolution enacted on January 7, 1971 was reaffirmed by the Board of Supervisors of York County by resolution duly enacted on August 2, 1990; and

WHEREAS, since that date, the proportionate population of the member jurisdictions has changed; and

WHEREAS, Article 3, Section 2 of the Bylaws of the Colonial Services Board states,

Williamsburg, James City County, York County and Poquoson  
shall be represented, as nearly as is practicable, on the Board in  
proportion to each jurisdiction's percentage of the overall popula-  
tion of the catchment area.

NOW, THEREFORE, BE IT RESOLVED, that the Board of Supervisors of York County,

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in conjunction with the City Councils of Poquoson and Williamsburg the Board of Supervisors of James City County, desires to amend the number of board members serving on the Colonial Services Board in approximate proportion to current populations.

BE IT FURTHER RESOLVED, that the Board of Supervisors of York County does hereby amend the original resolution dated January 7, 1971, to amend the membership of the Colonial Services Board to be composed of fifteen (15) members who shall be appointed by the Board (s) of Supervisors/City Council (s) in the following manner:

Five	(5)	from James City County
Six	(6)	from York County
Two	(2)	from Williamsburg
Two	(2)	from Poquoson

Item No. 8. STREET ACCEPTANCES: Resolution R04-128.

**A RESOLUTION REQUESTING THE VIRGINIA DEPARTMENT OF  
TRANSPORTATION TO ACCEPT KINNAKETT RUN AND POHICK  
RUN IN RUNNING MAN, SECTION NINE-B, INTO THE SECON-  
DARY SYSTEM OF STATE HIGHWAYS**

WHEREAS, the following streets, which are shown on plats recorded in the Clerk's Office of the Circuit Court of York County, have been constructed to standards equal to the Virginia Department of Transportation's Subdivision Street Requirements as a requisite for acceptance for maintenance as part of the Secondary System of State Highways; and

WHEREAS, the Resident Engineer for the Virginia Department of Transportation has inspected these streets and found them to be acceptable for maintenance; and

WHEREAS, the York County Board of Supervisors does hereby guarantee unencumbered rights of way, as described on the following Form SR-5A, plus the necessary easements for cuts, fills, and drainage for these streets;

NOW, THEREFORE, BE IT RESOLVED by the York County Board of Supervisors, this the 17th day of August, 2004, that the Virginia Department of Transportation be, and it hereby is, requested to add and maintain the streets described on the following Form SR-5A as part of the Secondary System of State Highways, pursuant to Section 33.1-229, Code of Virginia, 1950 amended, and the regulatory requirements of VDOT.

BE IT FURTHER RESOLVED that copies of this resolution be forwarded to the developer of Running Man, Section Nine-B, and to the Resident Engineer of the Virginia Department of Transportation.

**In the County of York**

By resolution of the governing body adopted August 17, 2004

***The following Form SR-5A is hereby attached and incorporated as part of the governing body's resolution for changes in the secondary system of state highways.***

**Report of Changes in the Secondary System of State Highways**

Form SR-5A  
Secondary Roads Division 5/1/99

**Project/Subdivision**

**Running Man, Section Nine-B**

Type of Change: **Addition**

The following additions to the Secondary System of State Highways, pursuant to the statutory provision or provisions cited, are hereby requested, the right of way

for which, including additional easements for drainage as required, is guaranteed:

Reason for Change: Addition, New subdivision street

Pursuant to Code of Virginia Statute: **§33.1-229**

**Route Number and/or Street Name**

**Kinnakeet Run, State Route Number 1851**

*Description:* **From:** Intersection of Corrotoman Run (Route 1852)

**To:** Route 1853 (Pohick Run)

A distance of: 0.23 mile.

*Right of Way Record:* Filed with the Clerk of the Circuit Court on 8/20/2001, Plat Book 13, Pg. 344-347, and 8/13/2002, Instrument No. 020016542, with a width of 50'

**Pohick Run, State Route Number 1853**

*Description:* **From:** Route 1851 (Kinnakeet Run)

**To:** End of cul-de-sac

A distance of: 0.07 mile.

*Right of Way Record:* Filed with the Clerk of the Circuit Court on 8/13/2002, Instrument No. 020016542, with a width of 50'

*Description:* **From:** Route 1851 (Kinnakeet Run)

**To:** Route 1604 (Robin Hood Drive)

A distance of: 0.10 mile.

*Right of Way Record:* Filed with the Clerk of the Circuit Court on 6/18/1998, Plat Book 12, Pg. 589-594, and on 8/13/2002, Instrument No. 020016542, with a width of 50'

Item No. 9. REQUEST FOR STREET SIGN: Resolution R04-129.

A RESOLUTION TO REQUEST THE VIRGINIA DEPARTMENT OF TRANSPORTATION TO INSTALL A "WATCH FOR CHILDREN" SIGN ON DARE ROAD EAST OF ITS INTERSECTION WITH LINK ROAD

WHEREAS, Section 33.1-210.2 of the Code of Virginia provides for the installation and maintenance of signs by the Virginia Department of Transportation alerting motorists that children may be at play nearby, upon receipt of a request from the local governing body; and

WHEREAS, Section 33.1-210.2 further provides that funding for the fabrication and installation of such sign be provided from Secondary System allocations for the jurisdiction or from other funds provided by the governing body; and

WHEREAS, the York County Board of Supervisors has received a request to support the installation of such a sign on Dare Road, east of its intersection with Link Road; and

WHEREAS, the Board has determined that there is a need for such as sign due to increasing traffic and the report of a recent incident involving a vehicle striking a 2-year old child;

NOW, THEREFORE, BE IT RESOLVED by the York County Board of Supervisors this 17<sup>th</sup> day of August, 2004, that the York County Board of Supervisors does hereby request the Virginia Department of Transportation to install and maintain a "Watch for Children" sign on Dare Road (Route 621) east of its intersection with Link Road (Route 620);

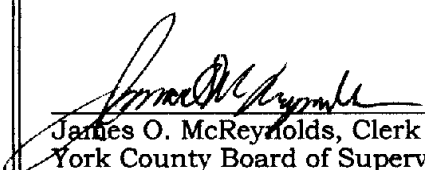
August 17, 2004

BE IT FURTHER RESOLVED that the Board requests that funding for the fabrication and installation of such sign be from the Secondary System construction allocations provided to York County.

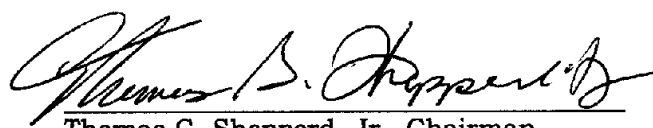
Meeting Adjourned. At 11:49 p.m. Chairman Shepperd, moved that the meeting be adjourned to 6:30 p.m., Thursday, August 26, 2004, at the Carrot Tree restaurant, for the purpose of conducting a joint meeting with York County's legislative delegation.

On roll call the vote was:

Yea: (5) Noll, Bowman, Burgett, Zaremba, Shepperd  
Nay: (0)



James O. McReynolds, Clerk  
York County Board of Supervisors



Thomas G. Shepperd, Jr., Chairman  
York County Board of Supervisors